

Remarks

The specification has been amended to correct the priority claim by substituting continuation for divisional which is consistent with the application papers.

Claims 9, 13, 18, and 20 have been amended. Claims 1-8, 10, 12, 15-16 and 19 have been cancelled. No claims have been added. Thus, claims 9, 11, 13-14, 17-18 and 20 are subject to continued examination.

35 U.S.C. §112 Rejections

Claims 1-20 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action specifically cites that the claims are confusing as to intent because the "at least one black coloring agent" and the "toner compound" are not mutually exclusive species. Applicants respectfully submit that the amendment of claim 13 delineates that the article is comprised of at least one black coloring agent and at least one discrete toner compound independent of the black coloring agent. Support for this claim feature is found on page 5, line 21 through page 6, line 2 of the specification as initially filed. Likewise, claims 9 and 18 as amended recite an article comprising at least one black coloring agent and a toner combination of compounds independent of the black coloring agent. In light of the above, Applicants respectfully request that the rejection of claims 9, 13, 18 and the remaining

dependent claims on the basis of 35 U.S.C. §112, second paragraph, should not be maintained.

Claims 1-20 stand rejected under 35 U.S.C. §112, first paragraph, as failing to enable the employment of one colorant to achieve the coloring effects of the invention. As amended, claims 9, 13, and 18 specify the utilization of at least two colorants. Previous arguments point out that the amended claims teach the use of at least one black coloring agent and at least one toner compound or a combination of toner compounds which are independent of the black coloring agent. As the examiner points out, the specification is enabling for the employment of multiple colorants. Consequently, applicants respectfully request that the rejection of claims 9, 13, 18, and all dependent claims on the basis of 35 U.S.C. §112, first paragraph, be withdrawn.

Claims 9-12 and 18-20 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Office Action suggests that applicants' supporting disclosure is not supportive of the toner combination of compounds that comprises a first compound exhibiting a single absorption peak and a λ_{\max} between 560 and 575 nm and a second compound exhibiting a single absorption peak and a λ_{\max} between 576 and 610 nm. Applicants respectfully point out that support for the toner combination of compounds can be found on page 6, lines 6-9 of the specification as filed. Applicants respectfully request that the new matter rejection of pending claims 9, 11, 18 and 20 should not be maintained.

Claims 18-20 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action argues that there is insufficient antecedent basis for "at least one of the compositions of steps "a" and "b". Claim 18 has been amended to clarify that the black colorant formulation is found in either the polyol composition described in step "a" or the isocyanate composition found in step "b" or in both the polyol and isocyanate compositions. Applicants respectfully request that continued rejection of claims 18 and 20 on the basis of 35 U.S.C. §112, second paragraph, should not be maintained.

Anticipation Rejections

Claims 1-8 and 13-17 stand rejected under 35 U.S.C. §102(b) as being anticipated by Rekers et al. (4,846,846). Continued rejection on this basis is respectfully traversed and reconsideration is requested.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the ...claim (MPEP §2131). As regards claims 1-8, the cancellation of such claims is believed to obviate any continued rejection. As regards claims 13-17, applicants respectfully submit that Rekers et al. fails to teach each and every limitation of the claims as amended. The disclosure of Rekers et al. does

not teach the use of toners containing triphenylmethane chromophores and consequently the disclosure does not anticipate the instant claims.

Claims 1-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by Ragsdale et al. (5,731,398). As best understood, Ragsdale '398 utilizes black colorant compositions in the production of polyurethane foams in order to achieve uniformity of color regardless of the light source. Ragsdale does disclose the use of a blue colorant containing a triphenylmethane chromophore. However, compositions disclosed in Ragsdale '398 consist of 10-60% of red, yellow, and blue colorant to total colorant compound (Col. 4, lines 39-41). Furthermore, the blue colorant is employed in the colorant composition at a level of 44.5% (Example 1), 36.6% (Example 2), 46.0% (Example 3), and 37.2% (Example 5). The amended claims specify that the cumulative mass of the toner compound containing a triphenylmethane chromophore can not exceed 6% of the cumulative mass of the black coloring agent. Furthermore, in Ragsdale '398 the blue colorant was utilized as a component of the black colorant composition and not as a separate toner compound independent of the black coloring agent as seen in the instant application (page 22-23, Table 2). Accordingly, since Ragsdale '398 fails to teach the limitations as claimed by Applicants in amended claim 9, 13, and 18, and since all of the other rejected claims each depend directly or indirectly from these claims, Applicants respectfully request that the outstanding anticipation rejection be withdrawn.

Claims 1-20 are rejected under 35 U.S.C. §102(e) as being anticipated by Ragsdale et al. (6,642,283). Ragsdale '283 discloses a novel blue polymeric

anthraquinone colorant and employs REACTINT Blue X3LV, a triphenylmethane polymeric colorant, in black polymeric colorant compositions to compare with the inventive anthraquinone containing black colorant compositions. Nevertheless, Ragsdale '283 utilizes the triphenylmethane polymeric colorant at levels of 36.6% (Col. 12, line 13) which is clearly much greater than the 6% limitation of the instant application claims. Furthermore, the blue triphenylmethane polymeric colorant of Ragsdale '283 was utilized as a component of the black colorant composition and not as a separate toner compound independent of the black coloring agent as seen in the instant application. Accordingly, since Ragsdale '283 fails to teach the limitations as claimed by Applicants in amended claim 9, 13, and 18, and since all of the other rejected claims each depend directly or indirectly from these claims, Applicants respectfully request that the outstanding anticipation rejection be withdrawn.

Non-Statutory Double Patenting Rejections

Claims 1-20 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,642,283.

Applicants note that the present application and the cited U.S. Patent have at all times been commonly owned by the same entity. Upon resolution all other issues, applicants will be willing to provide a terminal disclaimer, if required, to obviate this rejection.

Claims 1-20 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of copending Application No. 10/400,216 and claims 1-18 of copending Application No. 10/400,961.

Applicants note that the present application and the cited copending patent applications have at all times been commonly owned by the same entity. In light of the provisional status of the rejection, it is respectfully submitted that a terminal disclaimer would be premature at this time. Upon resolution all other issues, applicants will be willing to provide a terminal disclaimer, if required, to obviate this rejection.

Conclusion:

For the reasons set forth above, it is respectfully submitted that all pending claims now stand in condition for allowance.

Should any issues remain after consideration of this Amendment and accompanying Remarks, the Examiner is invited and encouraged to telephone the undersigned in the hope that any such issue may be promptly and satisfactorily resolved.

In the event that there are additional fees associated with the submission of these papers, authorization is hereby provided to withdraw such fees from Deposit Account No. 50-1424.

Extension of Time: A one month extension of time accompanies this

submission. In the event that additional time is required to have the papers submitted herewith for the above referenced application to be considered timely, Applicant hereby petitions for any additional time required to make these papers timely and authorization is hereby granted to withdraw any additional fees necessary for this additional time from our Deposit Account No. 50-1424.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James M. Robertson', is written over a horizontal line.

James M. Robertson

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